

HOUSE No. 2687

By Mr. Koutoujian of Waltham, petition of Peter J. Koutoujian
relative to patient health care costs. Health Care Financing.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO PATIENT HEALTH CARE COSTS.

*Be it enacted by the Senate and House of Representatives in General
Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. The General Court finds that consumers without
2 health care coverage are sometimes charged more for needed
3 health care services and often cannot afford to pay for these serv-
4 ices. This Act requires health care facilities to establish self-pay
5 patient programs and provide information on the self-pay pro-
6 gram, and provides a venue for billing disputes.

1 SECTION 2. Chapter 118G of the General Laws is hereby
2 amended by inserting at the end thereof the following new
3 section:

4 Section 28. Self-Pay Patient Health Care Costs.

5 Definitions.

6 For purposes of this section, the following words shall, unless
7 the context clearly requires otherwise, have the following mean-
8 ings:—

9 “Alternative payment arrangement,” a method of payment that
10 allows payment of billed charges on other than a lump sum basis
11 or on a delayed basis.

12 “Division,” the division of Health Care Finance and Policy.

13 “Health facility,” any hospital or ambulatory surgical center
14 defined in section 1 of Chapter 118G of the General Laws.

15 “Self-pay patient,” a patient who is a Massachusetts resident
16 and who does not have coverage under a health insurance plan,
17 Medicare, Medicaid, or other government program, and is not eli-

18 gible for free care or partial free care in the Uncompensated Care
19 Pool under Chapter 118G.

20 “Self-pay program,” a program developed by a health facility
21 that includes, at a minimum: reduced charges for self-pay patients
22 that are no greater than the maximum allowable charge estab-
23 lished by the division for self-pay patients for a particular health
24 care service; and alternative payment arrangements for self-pay
25 individuals.

26 (b) Self-pay patient program

27 (1) Each health facility shall develop a self-pay program and
28 shall provide each self-pay patient with information on its self-pay
29 patient program as a condition of admission for the provision of
30 non-emergency health care services and as soon as reasonably
31 practicable for the provision of emergency health care services.

32 (2) A health facility shall develop and implement procedures
33 for self-pay patients to apply for reduced charges or an alternative
34 payment arrangement. The health care facility shall design the
35 application form and procedures in a manner calculated to
36 encourage participation in the program by eligible self-pay
37 patients.

38 (c) Publication of self-pay program; reports

39 (1) A health facility shall make available to the public on its
40 Internet website, in a format that can be downloaded, a copy of its
41 self-pay program and post a clear and conspicuous notice in its
42 reception areas open to the public, in its admissions office, if
43 applicable, and in its billing office informing patients of the health
44 facility’s self-pay program and the ability to obtain a copy of the
45 program upon request.

46 (2) Each health facility shall, on a quarterly basis, report to the
47 division the number of patients applying for the self-pay program
48 and the number of patients accepted for reduced charges under the
49 self-pay program.

50 Charges for Services.

51 (1) A health facility shall not, as a condition of admission for or
52 the provision of non-emergency services, require a patient or a
53 patient’s representative to sign any form that requires or binds the
54 patient or the patient’s representative to make an unspecified or
55 unlimited financial payment to the health facility or to waive the
56 patient’s right to appeal charges billed.

57 (2) A health facility may require a financial commitment from a
58 self-pay patient or a self-pay patient's representative for non-
59 emergency services only if it provides a prior written estimate of
60 charges for the health facility, its contractors, and facility-based
61 physicians for the items and services generally required to treat
62 the patient's condition. The health facility shall notify the self-
63 pay patient or the self-pay patient's representative of any revision
64 to the estimate in a timely manner. If the health facility makes a
65 revision to the estimate that exceeds the lesser of twenty percent
66 (20%) of the original estimate or one thousand dollars
67 (\$1,000.00), any financial commitment made by the self-pay
68 patient or the self-pay patient's representative shall be null and
69 void.

70 (3) In the event of any unanticipated complications or unfore-
71 seen circumstances in providing non-emergency services to a self-
72 pay patient, the health facility may charge the self-patient for
73 additional treatment, services, or supplies rendered in connection
74 with the complication or unforeseen circumstance, if such charges
75 are itemized on the self-pay patient's billing statement.

76 (4) Each health facility shall provide a patient for the medical
77 service or item rendered to the self-pay patient the following:

78 1. the full charge for each medical service or item rendered to
79 the self-pay patient;

80 2. the reduced charge to be paid by the self-pay patient for each
81 medical service or item rendered to the self-pay patient; and

82 3. the expected amount that would be paid under the Medicare
83 program for that item or service, including the amount of any
84 required cost-sharing, and excluding the amount of any add-on or
85 supplemental Medicare payments, such as for graduate medical
86 education or the disproportionate share or critical access hospital
87 adjustment.

88 (5) A health facility shall not condition the provision of health
89 care services to a self-pay patient based upon the patient waiving
90 any provision of this Act.

91 (e) Right to contest billings

92 (1) A patient or a patient's representative shall have the right to
93 appeal any charges in a health facility bill for the patient,
94 including charges for any of the health facility's contractors or
95 facility-based medical providers. All health facility bills shall con-

96 spicuously display at the bottom of each bill in at least twelve-
97 point boldface capital letters a prominent notice of the patient or
98 patient's representative right to appeal any of the charges in the
99 bill.

100 (2) A patient or a patient's representative with appropriate
101 authorization shall have unlimited access to the patient's complete
102 medical record and all health facility billing records relating to the
103 patient's bill to enable the patient or the patient's representative to
104 determine the appropriateness and correctness of all charges. A
105 health facility may not charge any fee for this access, but may
106 charge reasonable fee for copies of these records.

107 (3) A health facility shall establish an impartial method for
108 reviewing billing appeals that includes, at a minimum:

109 1. review by an individual who was not involved in the initial
110 billing; and

111 2. the provision of a written decision with a clear explanation
112 of the grounds for the decision to the patient or patient's represen-
113 tative making the appeal and to the division within thirty (30)
114 days of the receipt of the appeal.

115 (4) A health facility shall maintain a complete and accurate log
116 of all appeals that includes, at a minimum, the name of the patient
117 or patient's representative making the appeal, the basis for the
118 appeal, the charges and the amount of the charges under appeal,
119 and the disposition of the appeal.

120 (5) A health facility shall annually report to the division the
121 number of appeals, the total of the charges subject to appeal, and a
122 summary of the dispositions of the appeals.

123 (f) Investigations and penalties

124 (1) The division may fine a health facility up to five thousand
125 dollars (\$5,000) per violation of this section.

126 (2) Actions taken by the division pursuant to this section shall
127 not preclude any other remedy by an individual, a health insur-
128 ance plan, or other party that is available under contract or any
129 other provision of law.

130 (3) Any person may file a claim with the division alleging a
131 violation of Act. The division shall investigate and inform the
132 complaining person of its determination of whether a violation has
133 occurred and what action it will take.

134 (g) Division reports

135 (1) The division shall make public and post on its Internet web-
136 site, information regarding the reports submitted by each health
137 facility under sections (c) and (d).

138 (2) Commencing in 2006, on or before March 1 of each year,
139 the division shall issue a report to the General Court and the gov-
140 ernor that includes all of the following:

141 1. the number of self-pay patients applying for and receiving
142 reduced charges under a health facility's self-pay program;

143 2. the number of investigations it has conducted for alleged vio-
144 lations of this Act;

145 3. the number of violations the division has determined have
146 occurred; and

147 4. the name of each health facility that has violated this article
148 and the actions it has taken against these facilities.

149 (3) Copies of reports prepared pursuant to this section shall be
150 made available free of charge to the public upon request.

151 (h) Privacy

152 Any patient data collected or reported pursuant to this Act must
153 be consistent with state and federal law, including, but not limited
154 to, the Gramm-Leach-Bliley Act (12 U.S.C. §1811 et. seq.) and
155 the Health Insurance Portability and Accountability Act privacy
156 regulations (45 C.F.R. Part 164).